REMARKS

The application has been amended to place the application in condition for allowance at the time of the next Official Action.

The specification is amended to include section headings.

Claims 1-11 were previously pending in the application. Claim 2 is canceled and claims 12 and 13 are added. Therefore, claims 1 and 3-13 are presented for consideration.

Claims 1, 3, 4 and 11 are rejected as anticipated by ROTHSCHILD et al. 6,678,703. Claims 2, 5, and 7-10 are rejected as unpatentable over ROTHSCHILD et al. in view of GUPTA 6,370,480.

Reconsideration and withdrawal of these rejections are respectfully requested for the following reasons.

First, claim 1 is amended to include the subject matter of claim 2 and since ROTHSCHILD was not applied against claim 2, the rejection over ROTHSCHILD is believed untenable.

Second, the rejection of ROTHSCHILD in view of GUPTA is believed untenable because GUPTA does not teach that for which it is offered.

The position set forth in the Official action is that GUPTA uses signal-to-noise ratio criterion to analyze an image.

However, this characterization of GUPTA is not supported by the teachings of GUPTA.

While column 11, lines 12-19 of GUPTA teach signal-to-noise ratio, nevertheless, such signal-to-noise ratio is used to evaluate the medical examination device itself, GUPTA does not teach or suggest that an image created by the image providing appliance is assessed based on signal-to-noise ratio.

Rather, as seen in Figure 4 of GUPTA, GUPTA loads phantom data in order to study the image generation properties of the medical device. GUPTA uses the results to ensure that each produced medical device meets a certain standard. Accordingly, in GUPTA, the medical examination device itself is evaluated, not that the individual images created by the device, images representative of, for example, a patient, are assessed using signal-to-noise ratio as a criterion.

The present application relates to, for example, medical examination pictures which are generated by an imaging machine and are to be published on the Internet. By this method, pictures are evaluated based on signal-to-noise ratio, so that only high quality pictures are published.

In view of the above, when one of ordinary skill in the art is faced with establishing criteria for evaluating pictures to be printed on the Internet, the teachings of GUPTA would not be pertinent to this problem. Accordingly, one of ordinary skill

in the art would not have been motivated to combine ROTHSCHILD with GUPTA to render obvious claim 1.

Third, when the claimed invention is considered as a whole, the differences between the prior art and the claims would not have been obvious.

The Federal Circuit has held that in determining the differences between the prior art and the claims, the question under 35 USC §103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983).

As set forth above, the problem solved by the present invention is publishing images on the Internet. In order to publish high quality images, signal-to-noise ratio is used as a criterion to evaluate the images before they are published.

As seen in Figure 4 of GUPTA, the pin to background ratio versus depth S216 (noted on column 11, lines 12-18 as signal-to-noise ratio) is one of a plurality of quality parameters that are evaluated by GUPTA that are used to evaluate an ultrasound imaging machine. GUPTA does not teach or suggest assessing an image created by a machine and evaluating that image based on signal-to-noise ratio.

As noted in the Official Action, ROTHSCHILD does not teach or suggest this feature. Accordingly, when the invention

as a whole is considered, claim 1 would not have been obvious in view of the proposed combination.

Claims 3-11 depend from claim 1 and further define the invention and are also believed patentable over the cited prior art.

In addition, the dependent claims also include features not disclosed by the references.

Claim 4 provides that a criterion for the assessment of the image is an illness and/or an injury of a person who has been examined with the medical appliance.

Column 14, lines 22-26 of ROTHSCHILD (noted in the Official Action) teaches diagnosing a parameter associated with Alzheimer's disease. However, such a parameter is based on a result attached to the electronic record to form a supplemental electronic record and is not based on the image. Moreover, ROTHSCHILD teaches a parameter for a specific illness and does not teach or suggest a criterion for assessing an image based on an illness.

Claim 5 provides that the manufacture, sale organization or the marketing organization defines the criterion or the criteria for the assessment of the image.

The "gold standard" of GUPTA is based on a standard phantom that is examined. This standard phantom, however, is not an evaluation criteria but is a standard picture. When a medical

examination device delivers pictures which deviate from the standard pictures, a conclusion can be drawn that the device has a fault. Although the standard phantom is commercially available, GUPTA does not teach or suggest that the manufacturer, sales organization or the marketing organization involved define the criteria for the assessment of an image.

Regarding claim 7, the position set forth in the Official Action is that column 3, lines 8-15 of GUPTA teach an index. However, such index of GUPTA indicates the accuracy of a test image relative to the gold standard only for the model machine under investigation. GUPTA neither teaches ranking published images nor that such images are published in a further Internet page, as recited. The system is evaluated internally to determine whether the machine under investigation has met the gold standard.

Claim 6 is rejected as unpatentable over ROTHSCHILD in view of KELLY et al. U.S. Publication No. 2002/0082864. This rejection is respectfully traversed.

KELLY is only cited for a teaching that the criterion or criteria for assessing an image can be updated via the internet. KELLY does not teach or suggest what is recited in claim 1. As set forth above, ROTHSCHILD does not teach or suggest what is recited in claim 1. Since claim 6 depends from

claim 1 and further defines the invention, the proposed combination of references would not render obvious claim 6.

In addition, KELLY does not appear to teach that for which it is offered.

[0011] noted in the Official Action teaches transmitting client data from a remote interface. However, such client data neither has an evaluation criterion nor is there any update of the evaluation criterion. Accordingly, claim 6 is believed patentable over the cited prior art.

New claims 12 and 13 are added. Claim 12 recites that only when the image has an acceptable signal-to-noise ratio is the image data transmitted. In ROTHERSHILD, all image data is transmitted regardless of its quality.

New claim 13 also includes the above limitation and is further directed to the image of a patient. Support for the new claims can be found in the figures and page 8, lines 21-24, for example.

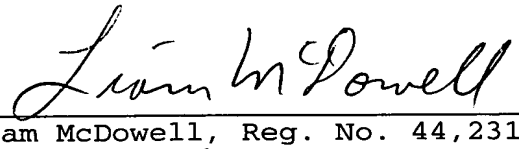
In view of the present amendment and the foregoing remarks, it is believed that the present application has been placed in condition for allowance. Reconsideration and allowance are respectfully requested.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any

overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R.§1.17.

Respectfully submitted,

YOUNG & THOMPSON



Liam McDowell, Reg. No. 44,231
745 South 23rd Street
Arlington, VA 22202
Telephone (703) 521-2297
Telefax (703) 685-0573
(703) 979-4709

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